

**THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael H. Johnson, Jr.,

Case No. _____

Plaintiff,

NOTICE OF REMOVAL

v.

Wells Fargo Bank, N.A., as trustee for the
Holders of the SASCO 2007 MLN1 Trust
Fund,

Defendant.

**TO: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
MINNESOTA:**

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. Sections 1332(a),
1441(a), and 1446, Defendant Wells Fargo Bank, N.A., as trustee for the Holders of the
SASCO 2007 MLN1 Trust Fund (“**Wells Fargo**”) hereby remove the action entitled
*Michael H. Johnson, Jr. v. Wells Fargo Bank, N.A., as trustee for the Holders of the
SASCO 2007 MLN1 Trust Fund*, District Court, Fourth Judicial District, County of
Hennepin, State of Minnesota, Court File No. 27-CV-11-8110 (the “**Action**”), to the
United States District Court for the District of Minnesota on the following grounds:

1. On April 25, 2011, Wells Fargo was served with a copy of the Summons
and Complaint in the Action.
2. Wells Fargo has timely filed this Notice of Removal within 30 days of
receiving service of the Summons and Complaint. *See* 28 U.S.C. § 1446(b).
3. In the Complaint, Plaintiff Michael H. Johnson, Jr. (“**Mr. Johnson**”) seeks
to enjoin Wells Fargo’s mortgage foreclosure by advertisement against Mr. Johnson for

certain real property located in Hennepin County, Minnesota and have it declared void as a matter of law.

4. This Court has original jurisdiction over the Action under 28 U.S.C. §§ 1332(a) and 1441 and the Action is removable to this Court by Wells Fargo pursuant to the provisions of 28 U.S.C. § 1441(a) and (b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, as explained below.

5. Based upon information in the Complaint, CMI is informed and believe Mr. Johnson is a citizen of Minnesota residing at 8204 Hiawatha Circle, Eden Prairie, Minnesota 55347.

Wells Fargo is a national banking association organized under the laws of the United States, with its principal place of business in Sioux Falls, South Dakota. For purposes of diversity jurisdiction, national banks, like Wells Fargo, are “deemed citizens of the States in which they are respectively located.” *See* 28 USCA § 1348; *accord American Surety Co. v. Bank of Cal.*, 133 F.2d 160, 162 (9th Cir. 1943); *Bank of Am. N.A. v. Johnson*, 186 F. Supp. 2d 1182, 1183-84 (W.D. Okla. 2001). Accordingly, Wells Fargo is a citizen of the state of South Dakota.

6. In the Complaint, Mr. Johnson is seeking a determination that Wells Fargo’s mortgage foreclosure by advertisement should be declared void because of the assignment of mortgage from Mortgage Electronic Registration Systems, Inc. to Wells Fargo purported violates the terms of Wells Fargo’s trust agreement.

7. By Mr. Johnson's allegations, the amount in controversy is measured by the value of the property and/or the amount of the loan. *See, e.g., Roper v. Saxon Mortgage Services, Inc.*, No. 1:09-CV-312-RWS, 2009 WL 1259193 at *2 (N.D. Ga. May 5, 2009) ("As Plaintiff seeks injunctive relief barring the foreclosure on the property at issue, the value of the property determines the financial value at stake."); *Henderson v. Nationstar Mortgage Co.*, No. C07-2039JLR, 2008 WL 302374 at *1 (W.D. Wash, Jan. 31, 2008) (where one of the main purposes of a lawsuit is to prevent defendant from going forward with the foreclosure sale of the property at issue, the amount in controversy is equal to the amount owed on the loan).

8. As referenced in the Complaint, the original mortgage amount was \$248,000.00 on the mortgage dated November 6, 2006. The value of the property, as measured by the 2010 tax assessed value from the Hennepin County assessor, is \$258,200.00.

9. Based upon the foregoing, Wells Fargo respectfully submits that the amount in controversy in the Action exceeds the jurisdictional minimum of \$75,000.00.

10. This Court is the proper district court for removal because the District Court, Fourth Judicial District, County of Hennepin is located within the United States District Court for the District of Minnesota.

11. True and correct copies of all pleadings, process, and orders served upon Wells Fargo in the Action are attached in composite Exhibit A.

12. Wells Fargo is simultaneously filing a copy of this Notice of Removal of Action with the state court in the Action. Wells Fargo will serve Mr. Johnson with copies of this Notice of Removal and the Notice filed in the Action.

13. By virtue of this Notice of Removal of Action and the Notice filed in the Action, CMI does not waive its rights to assert any personal jurisdictional defense or other motions including Rule 12 motions permitted by the Federal Rules of Civil Procedure.

PETERSON, FRAM & BERGMAN, P.A.

DATED: May 13, 2011

/s/ Jared M. Goerlitz _____.
Steven H. Bruns (#14888X)
sbruns@pfb-pa.com
Jared M. Goerlitz (#386714)
jgoerlitz@pfb-pa.com
55 East Fifth Street, Suite 800
St. Paul, MN 55101
Phone: (651) 291-8955
Fax: (651) 228-1753
*Attorneys for Defendant Wells Fargo Bank,
N.A., as trustee for the Holders of the SASCO
2007 MLN1 Trust Fund*